



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220126-0034; RTID 0648-XX073]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2022 and Projected 2023 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues final specifications for the 2022 Atlantic bluefish fishery, and projected specifications for 2023, as recommended by the Mid-Atlantic Fishery Management Council. This action is necessary to establish allowable harvest levels to prevent overfishing while enabling optimum yield, using the best scientific information available. This rule also informs the public of the final fishery specifications for the 2022 fishing year.

DATES: Effective [*insert date of publication in the FEDERAL REGISTER*].

ADDRESSES: The Mid-Atlantic Fishery Management Council prepared an environmental assessment (EA) for these specifications that describes the action and other considered alternatives. The EA provides an analysis of the biological, economic, and social impacts of the preferred measures and other considered alternatives. Copies of these specifications, including the EA, Regulatory Flexibility Act Analyses, and other supporting documents for the action are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. These documents are also accessible via the Internet at <https://www.mafmc.org/supporting-documents>.

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Policy

Analyst, (978) 281-9180.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission jointly manage the Atlantic Bluefish Fishery Management Plan (FMP). The FMP requires the specification of an acceptable biological catch (ABC), commercial and recreational annual catch limits (ACL), commercial and recreational annual catch targets (ACT), a commercial quota, a recreational harvest limit (RHL), and any other management measures, for up to 3 years at a time. This action implements bluefish specifications for the 2022 fishing year, and projects specifications for 2023, based on Council and Commission recommendations.

These specifications incorporate several revised measures from Amendment 7 to the FMP (86 FR 66977; November 24, 2021), including the rebuilding plan for the stock, and phased-in reallocation of commercial quota among the states in the management unit. There was also an overage of the fishery ACL caused by recreational catch in 2020, which will be accounted for through a pound-for-pound payback from the 2022 recreational ACT according to the accountability measures (AM) defined in the FMP (50 CFR 648.163(d)(1)). There is no sector transfer in these specifications because the stock is overfished. This action contains no changes to the recreational management measures because the expected recreational landings under the existing measures are likely to fully achieve the RHL.

The proposed rule for this action published in the **Federal Register** on December 2, 2021 (86 FR 68456), and comments were accepted through December 17, 2021.

NMFS received two comments from the public, and no changes were made to the final rule as a result of those comments (see **Comments and Responses** for additional detail).

Additional background information regarding the development of these specifications was provided in the proposed rule and is not repeated here.

Final Specifications

This action implements the Council and Commission's recommended 2022 and projected 2023 bluefish catch specifications, as outlined in the proposed rule. These specifications increase the 2022 fishery ABC by about 55 percent, and raise the 2022 commercial quota and RHL by 28 percent and 67 percent, respectively (Table 1).

Table 1 -- Comparison of 2021, 2022, and 2023 Bluefish Specifications*

	2021		2022		2023	
	Million lb	Metric tons	Million lb	Metric tons	Million lb	Metric tons
Overfishing Limit	32.98	17,228	40.56	18,399	45.17	20,490
ABC = Fishery ACL	16.28	7,385	25.26	11,460	30.62	13,890
Commercial ACL = Commercial ACT	2.77	1,255	3.54	1,604	4.29	1,945
Recreational ACL = Recreational ACT	13.51	6,130	21.73	9,856	26.34	11,945
Recreational Accountability Measures	0	0	3.65	1,656	0	0
Commercial Total Allowable Landings (TAL)	2.77	1,255	3.54	1,604	4.29	1,945
Recreational TAL	8.34	3,785	13.89	6,298	22.14	10,044
Sector Transfer	0	0	0	0	0	0
Commercial Quota	2.77	1,255	3.54	1,604	4.29	1,945
RHL	8.34	3,785	13.89	6,298	22.14	10,044

*Specifications are derived from the ABC in metric tons (mt). When values are converted to millions of pounds the numbers may slightly shift due to rounding. The conversion factor used is 1 mt = 2204.6226 lb.

The final commercial quota is allocated among the states from Maine to Florida based on percent shares specified in the FMP; however, Amendment 7 reallocated those percent shares, to be phased in over 7 years. Table 2 provides the commercial state allocations for 2022 and 2023 based on the final coastwide commercial quotas for each year, and the applicable reallocated changes to the percent shares specified in Amendment 7. No states exceeded their allocated quota in 2020, or are projected to do so in 2021; therefore, no accountability measures for the commercial fishery are required for the 2022 fishing year.

Table 2 -- 2022 and 2023 Bluefish State Commercial Quota Allocations

	2022			2023		
State	Percent Share	Quota (lb)	Quota (kg)	Percent Share	Quota (lb)	Quota (kg)
Maine	0.59	20,819	9,443	0.51	21,807	9,892
New Hampshire	0.39	13,655	6,194	0.36	15,331	6,954
Massachusetts	7.20	254,748	115,552	7.69	329,578	149,494
Rhode Island	7.21	254,956	115,646	7.61	326,165	147,946
Connecticut	1.24	43,885	19,906	1.22	52,094	23,629
New York	11.72	414,693	188,102	13.06	560,031	254,026
New Jersey	14.68	519,158	235,486	14.54	623,295	282,722
Delaware	1.68	59,442	26,962	1.48	63,572	28,836
Maryland	2.85	100,698	45,676	2.69	115,409	52,349
Virginia	11.02	389,802	176,811	10.16	435,625	197,596
North Carolina	32.06	1,133,855	514,308	32.05	1,374,077	623,271
South Carolina	0.04	1,590	721	0.05	2,344	1,063
Georgia	0.02	805	365	0.04	1,544	700
Florida	9.31	329,137	149,294	8.55	366,585	166,280
Total	100.00	3,537,096	1,604,400	100.01	4,287,109	1,944,600

As previously mentioned, this action makes no changes to the recreational management measures, as the expected recreational landings of 13.58 million pounds (6,160 metric tons) under the existing measures are likely to achieve the proposed RHL. The specifications for 2023 are projected based on the available data and the second year of the rebuilding plan model. However, there is a research track stock assessment scheduled for bluefish in 2022. The Council will review the projected 2023 specifications in light of any new information, including this assessment, to determine if changes need to be made prior to their implementation. NMFS will publish a notification prior to the 2023 fishing year to confirm these limits as projected or propose any necessary changes.

Comments and Responses

The public comment period for the proposed rule ended on December 17, 2021, and NMFS received two comments from the public. One commenter stated that beach replenishment efforts are destroying coastal habitats and disrupting the coastal food chain, and this is negatively affecting the bluefish stock and biomass numbers; especially inshore where most of the recreational fishery occurs. This action affects the annual catch

limits and quotas in the bluefish fishery. Environmental impacts and habitat conditions are analyzed in the EA for this action. The second commenter supported the action, and is in favor of overall increased quotas for the bluefish fishery. They commented that Florida should receive a higher percentage of the commercial quota, but support these specifications overall. State commercial quota allocations were the subject of a recent amendment to the Bluefish FMP, and changes to these allocations are beyond the scope of this specifications action. No changes to the proposed specifications were made as a result of these comments.

Changes from the Proposed Rule

There are no substantive changes from the proposed rule.

Classification

Pursuant to section 304(b)(3) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator, Greater Atlantic Region, has determined that these final specifications are necessary for the conservation and management of the Atlantic bluefish fishery, and that they are consistent with the Atlantic Bluefish FMP, the Magnuson-Stevens Act, and other applicable law.

The Assistant Administrator for Fisheries, NOAA, also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date for this rule to ensure that the final specifications are in place as close as practicable to the start of the 2022 bluefish fishing year, which began on January 1, 2022. A delay in effectiveness well beyond the start of this fishing year would be contrary to the public interest as it could create confusion in the bluefish industry, and compromise the effectiveness of the new measures to reallocate commercial quota among the states. Because the commercial quota is increasing, a delay too long into the new fishing year could also cause potential economic harm to the commercial bluefish fishery through lost opportunity to fish under the higher

limits.

Furthermore, this rule is being issued at the earliest possible date. These specifications include several changes that were implemented by Amendment 7 to the Bluefish FMP, and were delayed until after the final rule for the amendment published on November 24, 2021 (86 FR 66977). The proposed rule for these specifications published on December 2, 2021, with a 15-day comment period ending December 17, 2021. Because of these administrative delays, this final rule will not be effective for the January 1 start of the fishing year; however, a 30-day delay in effectiveness would postpone implementation of final 2022 specifications well into the fishing year, which is contrary to the public interest. State agencies also use commercially-allocated quotas to set annual state management measures. The longer these specifications are delayed, the longer it will take for some states to implement their respective regulations.

Finally, regulated parties do not require any additional time to come into compliance with this rule, and thus, a 30-day delay would not benefit the regulated community in this regard. Unlike actions that require an adjustment period, bluefish fishery participants will not have to purchase new equipment or otherwise expend time or money to comply with these management measures. Rather, complying with this final rule simply means adhering to the new catch limits set for the fishing year. Fishery stakeholders have also been involved in the development of this action and are anticipating this rule. Therefore, NMFS finds good cause not to delay this final rule's effectiveness, consistent with 5 U.S.C. 553(d)(3).

For these reasons, NMFS finds that a 30-day delay in effectiveness would be contrary to the public interest, and therefore, waives the requirement consistent with 5 U.S.C. 553(d)(1) and (3). As a result, there is good cause to implement this action on *[insert date of publication in the FEDERAL REGISTER]*.

This final rule is exempt from review under Executive Order 12866 because the action contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none was prepared.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This action contains no information collection requirements under the Paperwork Reduction Act of 1995.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 26, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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